

EXHIBIT C

In The Matter Of:
Elizabeth Lowing v.
Justin Visser, Newaygo County, Dale Gibbs, et. al.

Justin Visser
Vol. I
April 9, 2018
Justin Visser

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Elizabeth Lowing v.
Justin Visser, Newaygo County, Dale Gibbs, et. al.

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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN

3 ELIZABETH LOWING,
4 Plaintiff,

5 Case No. 1:17-cv-650
6 -vs- Hon. Gordon J. Quist

7 JUSTIN VISSER, NEWAYGO COUNTY,
8 DALE GIBBS, and VILLAGE OF HESPERIA,
9 in their individual and official capacities,
10 Defendants.

11

12 DEPOSITION OF JUSTIN VISSER,
13 Taken by the Plaintiff, before Jayne M. Jones, Court
14 Reporter (CSR-2457, RPR) and Notary Public for the
15 County of Ingham, Acting in the County of Newaygo,
16 on Monday, April 9, 2018 at 1035 E. James Street,
17 White Cloud, Michigan, at 10:00 a.m.

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1 APPEARANCES CONTINUED:
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8 Appearing on behalf of Defendants of Village of
9 Hesperia & Dale Gibbs.

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11 ALSO PRESENT: Dale Gibbs

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17 Newaygo.

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1 White Cloud, Michigan
2 Monday, April 9, 2018
3
4 R E C O R D
5 COURT REPORTER: Do you solemnly swear
6 the testimony you're about to give in the cause now
7 pending will be the truth, the whole truth, and nothing
8 but the truth?
9 THE WITNESS: Yes.
10 JUSTIN VISSER,
11 (at 10:00 a.m., sworn as a witness,
12 testified as follows:
13 EXAMINATION
14 BY MR. CABOT:
15 Q. Will you please state your full name for the record?
16 A. Justin. Middle name Lee, L-E-E. Last name is Visser.
17 V-I-S-S-E-R.
18 MR. CABOT: Please let the record
19 reflect that this is the deposition of Justin Visser
20 taken pursuant to notice and agreement of counsel, to
21 be used for any and all purposes consistent with the
22 Federal Court Rules and the Federal Rules of Evidence.
23 BY MR. CABOT:
24 Q. Good morning. My name is Shawn Cabot. I'm one of the
25 attorneys representing Elizabeth Lowing regarding an

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1 incident that occurred on/or about December 15, 2015.
2 This is what we typically call a
3 discovery deposition, which is really just a fancy way
4 of saying I get to ask you a bunch of questions today.
5 Have you ever had your deposition taken
6 before?
7 A. Yes.
8 Q. All right. So you're probably pretty familiar with the
9 ground rules, but I don't think you and I have ever had
10 occasion to have a deposition together so I'm going to
11 give you my version of the rules. They will probably
12 serve as just a reminder to you then.
13 The first rule is the important rule and
14 that is always make sure your responses are verbal.
15 The court reporter cannot take down nods of the head,
16 shrugs of the shoulders; thing like that. Also, if I
17 ask you a yes or no question, try to remember to say
18 yes or no. Versus saying things like um-hum or un-huh,
19 because believe it or not, the lawyers do read these
20 transcripts later and we'll get confused and not know
21 if one of those things was a yes or a no and we don't
22 want that to happen.
23 Our goal here today is to get whatever
24 your version of the events is in an understandable and
25 clear format in the transcript.

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1 If I ask you a question that you don't
2 understand or doesn't make sense to you, you can tell
3 me that. You won't hurt my feelings. And I'll
4 rephrase the question. But if you answer the question,
5 I'll presume you understood the question and I will
6 hold you to whatever answer that you give me.
7 There may be periodically times that
8 your attorney may object to some of my questions on
9 some legal ground that he just doesn't like the
10 question for whatever reason, but absent an instruction
11 from him not to answer the question, when he's done
12 with his objection, the rule of thumb is to go ahead
13 and answer the question. If for some reason your
14 attorney has some basis that he does not want you to
15 answer the question, I'm sure that instruction will be
16 very clear to us all. But I don't anticipate that
17 happening.
18 The other thing is, you know, obviously
19 this is a rather informal setting. There's no judge,
20 there's no jury and there's nothing like that. So it's
21 rather conversational. But with that, we have to be
22 careful that we don't talk over one another because the
23 court reporter, as you can see, she's busy typing away,
24 and she can only take down one person speaking at a
25 time. So it's really important that you listen to my

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1 question first in its entirety and then wait until I'm
2 done before you answer the question. And, likewise,
3 I'll grant you that same courtesy. I'll not ask a
4 question until I think your answer is done. And that
5 way we just, again, get a clear record which is our
6 ultimate goal.
7 Also, if at any time you need to take a
8 break, that's fine. I just ask that you answer any
9 question that may be pending before you take that
10 break. All right?
11 A. Yup.
12 Q. All right. Prior to your deposition today, have you
13 reviewed anything?
14 A. I have.
15 Q. What have you reviewed?
16 A. The report. We reviewed our policy. Yeah.
17 Q. Okay. Now, there are a couple of reports here. One
18 from yourself. One from Gibbs. Did you read both of
19 those or just yours?
20 A. Just mine.
21 Q. Okay. Any other reports other than the police report
22 that you reviewed in preparation for today?
23 A. Any other reports?
24 Q. Yeah.
25 A. No.

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<p>1 Q. Okay. And the policy, I'm assuming that's the use of 2 force policy? 3 A. Yes. 4 Q. Other than your attorneys, have you discussed this 5 matter with anyone else? 6 A. My sheriff and undersheriff. 7 Q. And what are their names? 8 A. Sheriff Mendham. 9 Q. Can you spell that? 10 A. Yup. M-E-N-D-H-A-M. 11 Q. And does he or she have a first name? 12 A. Robert is his official name. 13 Q. And who is the undersheriff? 14 A. Chad Palmeter. P-A-L-M-E-T-E-R. 15 Q. Okay. And regarding this incident, what documents did 16 you draft or author other than your police report, if 17 any? 18 A. It would be just the use of force form that we have to 19 fill out. 20 Q. Okay. And did you fill one out in this case? 21 A. I would say yes, but I don't remember. 22 Q. You didn't review that, though, in preparation for 23 today, correct? At least that wasn't one of the things 24 that you listed for me. 25 A. No, I did not.</p>	<p>1 Q. And so under the policy, you should have done a use of 2 force form, correct? 3 A. There should be, yeah. 4 Q. Okay. I'm going to ask that you look for that at some 5 point with your counsel and if you find it, send it to 6 him because I know I haven't seen it and he said that 7 he hasn't seen it. So we just want to make sure if 8 there is one, we get it and if there's not, we know 9 there's not. 10 A. Okay. 11 Q. Have you ever been sued before? 12 A. No. 13 Q. Have you ever been the subject of a citizens complaint 14 which alleged any type of force or demeanor issues? 15 A. No. 16 Q. Have you ever been the subject of an internal 17 investigation to your knowledge? 18 A. No. 19 Q. Do you get performance evaluations? 20 A. I guess -- 21 Q. Sure. I'll explain it. Some departments have some 22 type of annual or semiannual review process. In a vast 23 majority of departments it's a paper evaluation where 24 they rank you one to five or one to ten, or A to E. 25 Other places have some type of oral performance</p>
Page 10	Page 12
<p>1 Q. As you sit here today, are you a hundred percent 2 certain you drafted a use of force? 3 A. I'm not one hundred percent sure. 4 MR. CROSS: Just for the record, Shawn, 5 I haven't seen it either. So I don't think it exists. 6 BY MR. CABOT: 7 Q. That's why I'm looking through my papers because I 8 don't remember seeing one either. But why don't you 9 tell me when a use force of form is supposed to be 10 completed. 11 A. When is it? 12 Q. Yes. In general. 13 A. In general, when, I guess, any type of force is used or 14 any type of, like basically if we go hands-on or if 15 there's like OC spray used or a Taser, or something to 16 that effect. 17 Q. Okay. And when you say "hands-on", generally does that 18 mean if you have hand-to-hand contact with an 19 individual that results in some type of arrest or 20 force? 21 A. On top of just the regular handcuffing of somebody, 22 yeah. 23 Q. And you used some level of force with Ms. Lowing on 24 this occasion, correct? 25 A. Um-hum. Oh. Yes. I'm sorry. Yes.</p>	<p>1 evaluation, which is then brought down to paper format. 2 Do you have anything like that? 3 A. No. 4 Q. Okay. Do you get use of force training? 5 A. Yes. 6 Q. How often does that occur? Or is it sporadic? 7 A. I would say sporadic. 8 Q. How long have you been with the Newaygo County 9 Sheriff's Department? 10 A. Including my part-time? 11 Q. Sure. 12 A. April of 2004. 13 Q. How many trainings have you had regarding use of force 14 since you've been with the department in 2004? 15 A. I -- I don't know an exact number. I will guess ten. 16 Q. Okay. So somewhere in the vicinity of ten? 17 A. I would guess. 18 Q. Okay. Is that hands-on or classroom training, or is it 19 computer modules? 20 A. Hands-on. Classroom. 21 Q. Do you recall when the last such training you had was? 22 A. I don't remember the exact date. 23 Q. And I notice you keep looking to your attorney. And 24 I'm just going to let you know it's a common thing, but 25 even if he knows the answer, he can't tell you.</p>

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<p style="text-align: right;">Page 13</p> <p>1 A. Okay. I'm sorry.</p> <p>2 Q. No, that's okay. Usually it always happens with</p> <p>3 plaintiffs. They always look at me during the</p> <p>4 deposition. But just know that he can't --</p> <p>5 A. Okay.</p> <p>6 Q. And if you don't know -- and that's one of the things</p> <p>7 that I'm sure he told you and I will tell you today --</p> <p>8 if you don't know an answer to my question, you can</p> <p>9 tell me you don't know. I may try to pick your brain a</p> <p>10 little bit further to see if I can open up some well of</p> <p>11 knowledge in there but if you don't know, you don't</p> <p>12 know. That's an acceptable answer.</p> <p>13 A. I don't remember the last date we had one.</p> <p>14 Q. Do you remember who your trainer was?</p> <p>15 A. They're -- we have several -- I remember there are</p> <p>16 several different ones. We have -- Craig Goodspeed has</p> <p>17 done it before. He was a deputy. Kevin Kulk from</p> <p>18 Fremont Police Department has done it before. And then</p> <p>19 Gabe Sanchez from our jail, he did it with his --</p> <p>20 another jail -- Glenna. And I don't know her last</p> <p>21 name.</p> <p>22 Q. All right.</p> <p>23 A. And then we have done trainings with Sensei Bomay from</p> <p>24 Bassai Karate.</p> <p>25 Q. I'm going to ask you if you can spell Sensei Bomay.</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. From where?</p> <p>3 A. Fremont High School.</p> <p>4 Q. The home of Gerber Baby Food?</p> <p>5 A. Home of the baby food.</p> <p>6 Q. And when did you graduate from there?</p> <p>7 A. 2000.</p> <p>8 Q. Any education post high school?</p> <p>9 A. Graduated -- I went to Muskegon Community College and</p> <p>10 then transferred to West Shore Community College.</p> <p>11 MR. CABOT: Off the record.</p> <p>12 (Conversation held off the record.)</p> <p>13 BY MR. CABOT:</p> <p>14 Q. Back on the record. And when did you attend Muskegon</p> <p>15 Community College?</p> <p>16 A. 2000 to 2001.</p> <p>17 Q. And you attended West Shore Community College during</p> <p>18 what time period?</p> <p>19 A. 2001 to December of '03.</p> <p>20 Q. Did you obtain a degree from Muskegon?</p> <p>21 A. Nope. No.</p> <p>22 Q. Nope is okay.</p> <p>23 A. Okay. I'm sorry.</p> <p>24 Q. Did you obtain a degree from West Shore Community</p> <p>25 College?</p>
<p style="text-align: right;">Page 14</p> <p>1 A. I think it's Sensi, S-E-N-S-E-I.</p> <p>2 Q. Yeah, I'm good with that one.</p> <p>3 A. Bomay is B-O-M-A-Y.</p> <p>4 Q. And he's from where?</p> <p>5 A. Newaygo. His first name is Jerry. I just call him</p> <p>6 Sensei. Sorry.</p> <p>7 Q. That's okay. And what facility was he from?</p> <p>8 A. Bassai. B-A-S-S-A-I.</p> <p>9 Q. All right.</p> <p>10 A. And he's done several trainings for us.</p> <p>11 Q. Okay. Do you know if they have any type of credentials</p> <p>12 from like the American Corrections Academy or anything</p> <p>13 like that?</p> <p>14 A. I don't know what they have.</p> <p>15 Q. All right. Fair enough.</p> <p>16 And when you go to these things, do you</p> <p>17 know if they're mandatory?</p> <p>18 A. Yes, they are mandatory.</p> <p>19 Q. Do you sign some type of sign-in sheet, I suppose?</p> <p>20 A. Correct.</p> <p>21 Q. All right. Any background in the military at all?</p> <p>22 A. Nope.</p> <p>23 Q. Okay. Let's go back through your background a little</p> <p>24 bit, starting with your education.</p> <p>25 Are you a high school graduate?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. I did.</p> <p>2 Q. And what was the nature of that degree?</p> <p>3 A. An associate's in criminal justice and then it's,</p> <p>4 slash, criminal justice, because it was kind of a dual</p> <p>5 degree.</p> <p>6 Q. Okay. And who was your instructor? If you recall?</p> <p>7 A. I can see his face. Dan is his first name. I can't</p> <p>8 remember his last name right off the top of my head.</p> <p>9 Q. Any other education other than Muskegon Community</p> <p>10 College and West Shore Community College?</p> <p>11 A. No.</p> <p>12 Q. Any certificates or professional affiliations that you</p> <p>13 currently hold? Such as paramedic, EMS, MCOLES? All</p> <p>14 that sort of thing.</p> <p>15 A. I have my MCOLES.</p> <p>16 Q. Any breaks in service in that? Any lapses in that</p> <p>17 certification?</p> <p>18 A. No.</p> <p>19 Q. And how long have you been MCOLES certified?</p> <p>20 A. Since January of '04.</p> <p>21 Q. Okay. Any other professional certifications or</p> <p>22 affiliations you have other than the union, if you're</p> <p>23 in one?</p> <p>24 A. We are, yeah. I guess I do -- I just got put on the</p> <p>25 Fremont Fire Department, but I have not any</p>

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<p style="text-align: right;">Page 17</p> <p>1 certifications yet because I'm a proby, I guess, is 2 what they call you. 3 Q. Okay. And is that a full-time position? Volunteer? 4 A. Volunteer. 5 Q. And when did you start there? 6 A. November of last year. Of '17. 7 Q. Okay. 8 A. September or November. One of the two. 9 Q. Okay. Sure. 10 All right. Any other professional 11 affiliations or certifications you currently possess? 12 A. No. 13 Q. Let's look at your employment. Prior to your 14 employment with the Newaygo County Sheriff's 15 Department, did you hold any employment that dealt with 16 security or police-type work or corrections? 17 A. Yup. I worked at Fremont Police Department. That was 18 my first job right out of the academy. 19 Q. And when was that, approximately? 20 A. I was hired January of 2004. 21 Q. Okay. And how long did you work there, approximately? 22 A. A year. 23 Q. Was that a full-time position? 24 A. Part-time. 25 Q. And were you road patrol?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. And in what capacity? 2 A. Road patrol. 3 Q. Okay. And was that your position back in December of 4 2015? 5 A. Yes. 6 Q. And back in 2015 did you have a rank? Such as 7 sergeant, lieutenant, captain? 8 A. Deputy. 9 Q. Okay. Did you have any supervision responsibilities? 10 A. No. 11 Q. Who was your supervisor back in December of 2015? Or 12 if it could have been a couple of people, if that's 13 easier, you could list those. 14 A. 2015? I don't remember who my sergeant was. 15 Q. Okay. Male or female? 16 A. Male. 17 Q. Okay. 18 A. 2015? 19 Q. And they never tell you that this is going to be a 20 memory test, do they? 21 A. I'm just trying to think because we had -- we only had 22 two sergeants at the time. It probably was Sergeant 23 Lentz, L-E-N-T-Z, would be my guess as to who it was. 24 Q. And the record will reflect that's your best guess, 25 so --</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes. 2 Q. And your reason for leaving there? 3 A. Full-time at the sheriff's office. 4 Q. Did you work part-time at the sheriff's office while 5 you worked at Fremont, too? 6 A. I worked part-time at three different spots, actually. 7 Q. Okay. What were those? 8 A. So right after I got hired at Fremont, that summer -- 9 and I don't remember the date, I don't know if it was 10 April, May -- I got hired at Newaygo PD. 11 Q. Okay. So the summer of 2004, though? 12 A. Yup. 13 Q. Okay. 14 A. And then April of '04 I got hired part-time at the 15 sheriff's department. So I held all three of them at 16 the same time. 17 Q. A busy guy? 18 A. I was very busy. And then I stopped working when I got 19 hired full-time here. 20 Q. And when was that? 21 A. April of '05. 2005. 22 Q. And you're still presently employed with them? 23 A. The sheriff's office? 24 Q. Yes. 25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yup. 2 Q. Does he have a first name? 3 A. Jeff. 4 Q. All right. Prior to -- well, first of all, Newaygo 5 County, any estimate back in 2015 what the general 6 population of the county was? 7 A. It runs between 50 and 60,000. 8 Q. And back in 2015, as a road patrol deputy, did you have 9 a particular sector of the county that you were 10 particularly responsible for, or did that change 11 everyday, or as a road patrol deputy you were 12 responsible for the whole county? 13 A. We were responsible for the whole county. 14 Q. Did you typically work with a partner at that time? 15 A. No. 16 Q. Having grown up in Northern Michigan, I know that the 17 communities tend to be smaller. A little tightknit. 18 Generally people know each other. Were there people in 19 your mind back in 2015 that seemed to be frequent 20 fliers with the sheriff's department, so to speak? 21 A. Yes. 22 Q. Okay. Was Ms. Lowing one of those? 23 A. Yes. 24 Q. And in what way? 25 A. We had -- several of our deputies had taken several</p>

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<p>1 civils, civil complaints. Suicidals. Mostly civil</p> <p>2 complaints between her and her husband.</p> <p>3 Q. I'm going to start general and then we're going to be</p> <p>4 like a funnel and get more specific.</p> <p>5 A. Okay.</p> <p>6 Q. The complaints, the civil complaints between Ms. Lowing</p> <p>7 and her husband, were these physical domestics? Were</p> <p>8 these argument domestics? Or don't you know?</p> <p>9 A. Just from reading the other deputy's reports, there</p> <p>10 were kind of a wide range of complaints. Some of it</p> <p>11 was property. Some of it was physical. There were</p> <p>12 suicidal complaints with overtaking of medications.</p> <p>13 There was a CSC report. And I don't remember the rest</p> <p>14 of the reports.</p> <p>15 Q. Okay. The physical aspect, was it the husband</p> <p>16 claiming -- and I'm just going to make it real</p> <p>17 simple -- was it the husband claiming that the wife was</p> <p>18 beating him up? Or was it generally the wife</p> <p>19 complaining that the husband was beating her up?</p> <p>20 A. If I remember, it was both ways.</p> <p>21 Q. Okay. The CSC?</p> <p>22 A. Yup.</p> <p>23 Q. What was -- what do you recall that was about?</p> <p>24 A. She had reported that her husband tried to have anal</p> <p>25 sex with her.</p>	<p>1 Q. Okay. Do you think it was over 50, as far as Newaygo</p> <p>2 County was concerned?</p> <p>3 A. I'm going to -- I would guess around 50.</p> <p>4 Q. Okay.</p> <p>5 A. That's my best guess. Give or take.</p> <p>6 Q. Now we're going to go down that funnel a little bit.</p> <p>7 A. Yes.</p> <p>8 Q. How many do you personally recall being called to deal</p> <p>9 with?</p> <p>10 A. Two.</p> <p>11 Q. Okay. Were these pre -- and I'm going to say date of</p> <p>12 incident. The date of incident is going to be, the day</p> <p>13 we're going to be talking more in a bit, is December</p> <p>14 15, 2015.</p> <p>15 Were these pre date of incident or post,</p> <p>16 or a combination?</p> <p>17 A. Combination.</p> <p>18 Q. So one pre and one post?</p> <p>19 A. No, one the day of and one just two or three days</p> <p>20 after.</p> <p>21 Q. Is that the one where you went to the house with</p> <p>22 Goodspeed?</p> <p>23 A. Yes.</p> <p>24 Q. And somebody was wearing a body cam?</p> <p>25 A. Yes.</p>
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<p>1 Q. Okay. And then property. Was that like involving real</p> <p>2 property or personal property disputes?</p> <p>3 A. Personal -- when you say real?</p> <p>4 Q. Real means like an acre of land.</p> <p>5 A. Oh, no. Property -- or -- or not real.</p> <p>6 Q. So personal things?</p> <p>7 A. Oh, yes. Yes. Yes.</p> <p>8 Q. And was it alleged she stole from him? He stole from</p> <p>9 her? Or was it a mixture?</p> <p>10 A. Both.</p> <p>11 Q. Okay. Again, we're talking generalities now until we</p> <p>12 go down that funnel.</p> <p>13 How many complaints are you aware of</p> <p>14 that came from the Lowings, generally, from the time</p> <p>15 you've been with the Newaygo County Sheriff's</p> <p>16 Department?</p> <p>17 A. Came from the Lowings?</p> <p>18 Q. Well, when -- or the Sanborns. When she was a Sanborn?</p> <p>19 A. Well, in total? Or did you say before?</p> <p>20 Q. Before -- from the time you started to today, I guess.</p> <p>21 I mean are we talking in excess of 20?</p> <p>22 A. Yes.</p> <p>23 Q. Are we talking hundreds, thousands?</p> <p>24 A. Yes, over 20. I don't know other county reports. Just</p> <p>25 from us, I would say over 20.</p>	<p>1 Q. Were you wearing the body cam?</p> <p>2 A. We reviewed that. I don't know -- I think -- I don't</p> <p>3 remember. I believe it was me upon looking at it.</p> <p>4 Q. Because I could never see the person filming.</p> <p>5 A. Right.</p> <p>6 Q. But Goodspeed went with somebody and was talking to</p> <p>7 somebody.</p> <p>8 A. Yeah, I would dare say that was my body cam. I don't</p> <p>9 remember wearing one, but --</p> <p>10 Q. Okay. Did you have body cams issued to you in December</p> <p>11 of 2015?</p> <p>12 A. We had them issued, but my -- my system -- there were</p> <p>13 several cars, but my system, as well as other cars,</p> <p>14 would make our cars go dead so we had unhooked our --</p> <p>15 several cars camera systems.</p> <p>16 Q. Okay.</p> <p>17 A. So I did not have cameras.</p> <p>18 Q. Well, you did a couple of days afterward the incident?</p> <p>19 A. That was because we were with Goodspeed's car.</p> <p>20 Q. Okay. But on the day of the incident -- we'll get into</p> <p>21 this again I'm sure, because I will forget I asked</p> <p>22 you -- on the day of the incident you didn't have a</p> <p>23 body cam on. Is that accurate?</p> <p>24 A. That is accurate.</p> <p>25 Q. And if you didn't have a body cam on because, as your</p>

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1 testimony was, there was some technology issue, was
2 your car equipped with audio or video otherwise?
3 A. No.
4 Q. And you knew that?
5 A. I knew that, correct.
6 Q. Okay. So you dealt with Ms. Lowing twice. One the day
7 of the incident, and one a couple of days after when
8 you went with Goodspeed?
9 A. Correct.
10 Q. And what was the general call of that one, two or three
11 days later? What took you out there?
12 A. Ms. Sanborn was reporting that she had some property
13 that was taken.
14 Q. She didn't get violent with you or Goodspeed on that
15 day, did she?
16 A. No.
17 Q. Did you ever hear of Ms. Lowing or Sanborn -- and if I
18 say one or the other, it's the same person.
19 A. Correct.
20 Q. Since we obviously know they're divorced. On any of
21 these other occasions were you aware of Ms. Sanborn
22 getting violent with any deputy?
23 A. Not to my knowledge, no.
24 Q. Okay. Do you know if she had ever been jailed before
25 in Newaygo County Jail?

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1 A. I have no idea.
2 Q. Okay. You didn't jail her on your encounter with her
3 on the second one?
4 A. No.
5 Q. Correct?
6 A. No. Correct.
7 Q. So prior to December 15, 2015, you knew who Ms. Lowing
8 was generally through, I guess, watercooler talk,
9 correct?
10 A. I knew per reports, yeah. I didn't know her
11 personally.
12 Q. Had you ever had any deputies or other law enforcement
13 have a conversation directly about her with you prior
14 to the incident?
15 A. No.
16 Q. Okay. So tell me how did you initially get involved
17 with Ms. Lowing on December 15, 2015. What prompted
18 your initial involvement?
19 A. I was asked by Chief Gibbs to do a civil standby.
20 Q. And how were you asked by Chief Gibbs? Did he call
21 you? Did he -- like on a cell phone? Did he call
22 dispatch and they called you? How did that work?
23 A. Through the radio. I can't remember if he called
24 dispatch or if he just called for somebody.
25 Q. You called it a civil, what?

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1 A. Standby.
2 Q. And somebody who is reading this record who may not
3 know what that means, just tell us what that means.
4 A. In general terms, we stand there to make sure there's
5 no issue when people are either getting property or
6 something as far as civil. We just stand there to make
7 sure -- I shouldn't say that. We make sure that two
8 parties aren't getting into it.
9 Q. Don't duke it out?
10 A. Correct.
11 Q. So Gibbs did not request you specifically, is that
12 correct? Like did he request you by name?
13 A. No.
14 Q. Do you know, as you sit here today, what prompted him
15 to ask for a civil standby?
16 A. At that time, I did not.
17 Q. Okay. Do you know if there had been any interaction
18 with Gibbs and Mr. or Mrs. Sanborn at all prior to the
19 time you requested the civil standby?
20 A. I did not.
21 Q. And you believe you heard it over the radio?
22 A. I did hear it over the radio.
23 Q. And how was it determined that you would answer that
24 call?
25 A. We are the closest unit complaint. So I was probably

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1 the closest one there.
2 Q. Okay. Was there anyone else working road patrol in
3 Newaygo County that day other than yourself?
4 MR. CROSS: Object to foundation. If
5 you know, go ahead.
6 THE WITNESS: I don't know exactly who
7 but there were other people.
8 BY MR. CABOT:
9 Q. Okay. You're not a -- you're not a sole-person deputy
10 in Newaygo County, are you?
11 A. Correct. You're right.
12 Q. All right. Did you make any further contact with
13 Chief Gibbs or anyone else prior to your arrival at the
14 scene?
15 A. No.
16 Q. Was there any other information given in this initial
17 radio traffic about what was going on or why a civil
18 standby was even needed?
19 A. Not on the radio, no.
20 Q. Okay. I'm going to make some assumptions and you tell
21 me if I am wrong. You were probably in a fully-marked
22 police vehicle?
23 A. Correct.
24 Q. You were on duty as a sheriff's deputy at the time,
25 correct?

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<p style="text-align: right;">Page 29</p> <p>1 A. Correct.</p> <p>2 Q. And you were probably in full-brown sheriff deputy</p> <p>3 uniform?</p> <p>4 A. Correct.</p> <p>5 Q. And you probably had a gun on you?</p> <p>6 A. Correct.</p> <p>7 Q. You probably had at least one set of handcuffs on you?</p> <p>8 A. Correct.</p> <p>9 Q. Did you have any other weapons on you? Or did you have</p> <p>10 multiple sets of handcuffs?</p> <p>11 A. I have two sets of handcuffs.</p> <p>12 Q. Okay.</p> <p>13 A. Do you want me to tell you everything on my belt?</p> <p>14 Q. That you had that day, yeah, that I haven't already</p> <p>15 guessed.</p> <p>16 A. Taser.</p> <p>17 Q. Okay.</p> <p>18 A. Radio. Rubber gloves. Two sets of handcuffs. Gun.</p> <p>19 Keys. Mace. Pepper spray.</p> <p>20 Q. Were you advised at any time prior to your arrival that</p> <p>21 there had been some type of encounter with Mr. and</p> <p>22 Mrs. Sanborn at all prior to your arrival?</p> <p>23 MR. CROSS: Object. I just object to</p> <p>24 form. You can answer.</p> <p>25 THE WITNESS: I don't remember. I don't</p>	<p style="text-align: right;">Page 31</p> <p>1 road and there's kind of a parking way that is</p> <p>2 north/south so the cars can park in front of the police</p> <p>3 department. There's a road and then on the opposite</p> <p>4 side of the road there's the same idea, principle of</p> <p>5 parking, that can park north and south. I parked on</p> <p>6 that. So across the road in that parking spot parking</p> <p>7 east and west.</p> <p>8 Q. Were you parked behind Ms. Lowing?</p> <p>9 A. When you say "behind", like across the street?</p> <p>10 Q. Right.</p> <p>11 A. Yeah.</p> <p>12 Q. So what was the approximate distance that you were</p> <p>13 parked behind her?</p> <p>14 A. Two lanes of travel. I don't know how big the lanes</p> <p>15 are there.</p> <p>16 Q. Two lanes. One going east, one going west?</p> <p>17 A. Yeah. Like the east and west, I was like across the</p> <p>18 street.</p> <p>19 Q. Okay. The parking lot where Ms. Lowing was parked, was</p> <p>20 it paved?</p> <p>21 A. Yes.</p> <p>22 Q. So eventually when Ms. -- did you ever move your</p> <p>23 vehicle?</p> <p>24 A. Nope.</p> <p>25 Q. So to get Ms. Lowing from her vehicle to your vehicle,</p>
<p style="text-align: right;">Page 30</p> <p>1 believe so. I think I talked to Chief when we got</p> <p>2 there about what was going on.</p> <p>3 BY MR. CABOT:</p> <p>4 Q. Okay. And where did you -- when you arrived, did you</p> <p>5 arrive there with lights and sirens or normal speed?</p> <p>6 A. Normal speed.</p> <p>7 Q. Okay. There's nothing in the nature of the run that</p> <p>8 made it appear to you that there was an emergency, is</p> <p>9 that correct?</p> <p>10 A. Correct.</p> <p>11 Q. There was no request for multiple units, was there?</p> <p>12 A. Correct.</p> <p>13 Q. And what type of vehicle were you driving that day?</p> <p>14 A. Impala.</p> <p>15 Q. So it was a sedan versus a truck?</p> <p>16 A. Correct.</p> <p>17 Q. You were not a canine handler, were you?</p> <p>18 A. No.</p> <p>19 Q. All right. When you arrived at the scene, tell me what</p> <p>20 the scene was. Where were we?</p> <p>21 A. In the Village of Hesperia.</p> <p>22 Q. Okay.</p> <p>23 A. At the police department.</p> <p>24 Q. And where did you park in relation to Ms. Lowing?</p> <p>25 A. So the police department is on the north side of the</p>	<p style="text-align: right;">Page 32</p> <p>1 you would have to go across the street?</p> <p>2 A. Yes.</p> <p>3 Q. A road?</p> <p>4 A. Yup.</p> <p>5 Q. Two lanes of traffic?</p> <p>6 A. Yes.</p> <p>7 Q. Was there gravel before you get to the parking spots on</p> <p>8 the lanes?</p> <p>9 A. It's all paved.</p> <p>10 Q. Okay. Besides Ms. Lowing's vehicle, was there any</p> <p>11 other vehicles there parked near her that you're aware</p> <p>12 of?</p> <p>13 A. Chief Gibbs' car was out front. And I don't remember</p> <p>14 if there was any other cars there.</p> <p>15 Q. And Chief Gibbs' car, do you know how it was parked in</p> <p>16 relation to Ms. Lowing's vehicle?</p> <p>17 A. Near. I don't know how many spaces away from it it</p> <p>18 was, but it was somewhere over there.</p> <p>19 Q. Was his vehicle on the same side of the road as</p> <p>20 Ms. Lowing?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Do you know if Ms. Lowing's ex-husband's vehicle</p> <p>23 was there?</p> <p>24 A. It was not.</p> <p>25 Q. Do you know if Ms. Lowing's ex-husband was present when</p>

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<p style="text-align: right;">Page 33</p> <p>1 you arrived?</p> <p>2 A. He was not.</p> <p>3 Q. When you initially arrived, who did you physically see</p> <p>4 before you even get out of your car?</p> <p>5 A. Chief Gibbs.</p> <p>6 Q. Okay. And where was he?</p> <p>7 A. Standing outside somewhere. I don't remember where.</p> <p>8 Q. Was he in close proximity to Ms. Lowing's vehicle or</p> <p>9 was he closer to, like, the entrance of the police</p> <p>10 department?</p> <p>11 A. I don't remember.</p> <p>12 Q. Okay. So tell me what happens next. You park your</p> <p>13 car. Is that correct?</p> <p>14 A. Correct.</p> <p>15 Q. And what do you do next?</p> <p>16 A. I went and talked to Chief Gibbs.</p> <p>17 Q. Where did the two of you talk?</p> <p>18 A. Parking lot.</p> <p>19 Q. Out in the parking lot or did you go inside somewhere?</p> <p>20 A. No, outside in the parking lot somewhere. I don't</p> <p>21 remember exactly where.</p> <p>22 Q. Do you remember which vehicle was Ms. Lowing's at the</p> <p>23 time?</p> <p>24 A. At the time, no.</p> <p>25 Q. Okay. You know today?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. You couldn't understand any words she was saying?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And when you say screaming, does that mean at</p> <p>4 the top of her lungs or was she at an elevated voice?</p> <p>5 I'm just trying to get a sense of what was going on.</p> <p>6 A. Loudly. I don't know what the top of her lungs sound</p> <p>7 like. So I mean very loudly.</p> <p>8 Q. Okay. Did her voice ever crack from yelling so loud?</p> <p>9 A. I don't remember.</p> <p>10 Q. Okay. So what did you talk to Gibbs about when you</p> <p>11 initially arrived?</p> <p>12 A. Just kind of asked him what was going on and what was</p> <p>13 the civil standby.</p> <p>14 Q. And what was the response?</p> <p>15 A. Chief had advised me that they had pulled in there</p> <p>16 because she had rammed his -- Robert's car several</p> <p>17 times in the Village.</p> <p>18 Q. And he told you the words that "she rammed his car</p> <p>19 several times"?</p> <p>20 A. I don't remember exactly how it was, but had hit his</p> <p>21 car several times.</p> <p>22 Q. Okay.</p> <p>23 A. And that they had came in to make a complaint -- or he</p> <p>24 had came in to make a complaint and Ms. Sanborn</p> <p>25 followed in there. I don't know what transpired with</p>
<p style="text-align: right;">Page 34</p> <p>1 A. I don't even remember what kind of car it was.</p> <p>2 Q. I'll tell you. It was an Equinox.</p> <p>3 A. Okay.</p> <p>4 Q. When you were talking with Gibbs, were you in close</p> <p>5 proximity to the Equinox that you would eventually</p> <p>6 encounter Ms. Lowing in?</p> <p>7 A. Yes.</p> <p>8 Q. How far away do you think you were?</p> <p>9 A. I have no idea. Ten feet. Fifteen feet. That's a</p> <p>10 guess, though.</p> <p>11 Q. Okay. At any time from your initial arrival, to</p> <p>12 crossing the road, to talking with Gibbs, did you hear</p> <p>13 Ms. Lowing screaming or hollering or saying anything?</p> <p>14 A. Yeah, I could hear her screaming the whole time.</p> <p>15 Q. What was she saying?</p> <p>16 A. I couldn't understand what she was saying.</p> <p>17 Q. When you were talking to Gibbs, did you have to tell</p> <p>18 her to quiet down?</p> <p>19 A. At that time, no.</p> <p>20 Q. Okay. Were her doors open?</p> <p>21 A. Her driver's door was open.</p> <p>22 Q. Were her windows up or down?</p> <p>23 A. Don't remember.</p> <p>24 Q. Open or closed I guess?</p> <p>25 A. I don't remember.</p>	<p style="text-align: right;">Page 36</p> <p>1 that, but he had told Mr. Sanborn to head home and he</p> <p>2 told me that there was a -- they had just gotten a</p> <p>3 divorce and that there was an order or something that</p> <p>4 the judge had did where there was going to be custody</p> <p>5 of the dogs and Ms. Sanborn wanted to have somebody</p> <p>6 accompany her over to get the dogs. And in the midst</p> <p>7 of that in the Village, their incident happened.</p> <p>8 Q. Did Gibbs ever tell you if he had taken Ms. Lowing into</p> <p>9 the police station at all or --</p> <p>10 A. At that time, no.</p> <p>11 Q. Okay. Did you ever request backup?</p> <p>12 A. No.</p> <p>13 Q. Did you ever draw your weapon?</p> <p>14 A. No.</p> <p>15 Q. Ever threaten to draw your weapon on Ms. Sanborn?</p> <p>16 A. No.</p> <p>17 Q. Ever threaten or warn to Mace her?</p> <p>18 A. Nope.</p> <p>19 Q. Ever threaten or warn her that she would be arrested</p> <p>20 for disorderly or anything?</p> <p>21 A. Nope.</p> <p>22 Q. Okay. Disturbing the peace?</p> <p>23 A. Nope.</p> <p>24 Q. During your conversation with Mr. Gibbs, which was</p> <p>25 approximately, a guess, 10 to 15 feet away from</p>

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<p>1 Ms. Lowing, were the two of you -- you could hear what 2 Gibbs was telling you? 3 A. Could I hear? 4 Q. Yes. 5 A. Oh, yeah. 6 Q. Okay. 7 A. Yeah. 8 Q. So she wasn't yelling so loudly where the two of you 9 couldn't hear each other talk? 10 A. Correct. 11 Q. Were you talking at a normal tone with each other? 12 A. Yes. 13 Q. Okay. Was there anyone else present at that point? 14 A. No. 15 Q. Other than the three of you? 16 A. No. 17 Q. Did you ever look at any damage with respect to 18 Ms. Lowing's vehicle? 19 A. No. 20 Q. So you don't know if there was any damage to the 21 vehicle or not. Is that accurate? 22 A. That's correct. 23 Q. So after this initial conversation with Gibbs, what 24 happens next? 25 A. I walked over to Elizabeth to try to talk to her to</p>	<p>1 forward or back? Do you know what I mean? Cars have a 2 lever where you can either make your seat go real close 3 if you've got short legs or go far back if you have 4 long legs, or didn't you pay attention to that? 5 A. I mean it wasn't so close that she was right up against 6 the steering wheel. It was a normal distance for her. 7 Q. Okay. At the time that you initially encountered her, 8 did you notice if she had anything on her feet or legs? 9 A. I noticed that she had a cast. 10 Q. Which leg? 11 A. Originally I, through memory, I thought it was the 12 right leg. But through all the talk, it was her left 13 leg. But I couldn't remember. 14 Q. And do you remember what kind of cast it was? Was it 15 the kind we used to get when we were kids like the -- 16 A. It was -- sorry. 17 Q. -- like rough ones or was it like a walking cast, if 18 you recall? 19 A. Like a walking cast. 20 Q. And what's the first thing you -- was said when you 21 approached the vehicle? 22 A. I don't know exactly, but I walked over there to -- and 23 I asked her, you know: Hey. And I always introduce 24 myself. My name is Justin. I said what's going on. 25 Like basically what's going on.</p>
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<p>1 figure out what was going on. 2 Q. Does Gibbs follow or does he go in the police station? 3 A. I don't think he went into the police station. I don't 4 know where he was at. My back was to him. 5 Q. So he could have been two steps behind you or 20 feet. 6 You don't know? 7 A. I don't remember. 8 Q. Okay. And which side of the vehicle do you approach? 9 A. Driver's side. 10 Q. Okay. And Ms. Lowing was in the driver's side seat, 11 correct? 12 A. Correct. 13 Q. And you said her door was open? 14 A. Correct. 15 Q. Where were her hands? Were they on the wheel? On the 16 dash? You couldn't see them or you don't remember? 17 A. I don't remember where they were at. 18 Q. Okay. Was she sitting erect in the seat? Was she 19 slumped over? Was she sideways? 20 A. Sitting straight. Or, normal. 21 Q. Okay. Did she have a seatbelt on? 22 A. No. 23 Q. Did she have a lap belt on? 24 A. No. 25 Q. Do you know whether her seat was extended all the way</p>	<p>1 Q. And again you didn't have a weapon drawn at this point, 2 correct? 3 A. No. 4 Q. And you never drew one? 5 A. No. 6 Q. Did she have a response to your question? 7 A. Continued screaming. 8 Q. But do you know what she was saying? 9 A. No. 10 Q. I mean was she screaming swear words? Was she saying: 11 I can't believe this is happening to me? Was she 12 screaming: I don't want to live anymore? 13 A. There was a lot of words. I mean I couldn't -- I 14 couldn't put them all together. 15 Q. So you couldn't connect a theme? 16 A. Correct. 17 Q. Although, you know she wasn't screaming any verbal 18 threats at you or the officers? You knew that? 19 A. Right. Right. 20 Q. I'm going to shoot the police? 21 A. Correct. Correct. 22 Q. Or I'm going to kick your ass or -- 23 A. Correct. Correct. 24 Q. She wasn't doing anything like that? 25 A. Correct.</p>

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1 Q. And I'm assuming because if she had done that, you
2 probably would have had your hand on your weapon,
3 right? At a minimum?
4 MR. CROSS: Object to form.
5 THE WITNESS: No.
6 BY MR. CABOT:
7 Q. No?
8 A. No.
9 Q. Why not? Because you knew who she was?
10 A. No, she just didn't pose a threat to me.
11 Q. Okay. So -- and again I'm not trying to be difficult,
12 but you were there. And other than Mr. Gibbs, none of
13 us in the room were there.
14 A. Correct.
15 Q. So when you say "screaming", again is it like the top
16 of her voice or is she just talking at an elevated
17 tone?
18 A. Like I said, I don't know what the top of her voice
19 sounds like but it was very loud.
20 Q. Okay.
21 A. I mean it was -- yeah.
22 Q. Okay. Was it loud enough that if you think she was in
23 her car by herself with all the windows rolled up and
24 the doors shut, you could hear her outside?
25 A. Yes.

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1 Q. Prior to you arriving at the car, you believe your
2 initial communication was: Hey, my name is Justin.
3 What's going on?
4 A. Yup.
5 Q. Do you recall if prior to that you had ever told her to
6 quiet down?
7 A. Nope.
8 Q. Okay. And her response to your inquiry was saying more
9 things that you don't know what she said?
10 A. Correct.
11 Q. Then what happens?
12 A. I kneeled down and I talked real, real soft. Almost in
13 a whisper.
14 Q. Okay.
15 A. Trying to get her to kind of calm down. So I was
16 almost, like I said, I was whispering almost to the
17 point -- just to try to get her to calm down.
18 Q. Where is Gibbs at that point?
19 A. Somewhere behind me.
20 Q. Could have been two steps behind you? Twenty feet
21 behind you? You don't know?
22 A. I don't know. I was kneeling in the doorway.
23 Q. Okay. So you're actually -- the door -- was the door
24 fully extended?
25 A. Yes.

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1 Q. Okay. So you're in the V. part of the door to the
2 frame?
3 A. Kind of parallel with the door. With the opening. Not
4 like my back against the V. part, but like my back
5 towards the open part of the door.
6 Q. Okay. I'm trying to understand your positioning, so --
7 and I know this didn't happen, but if she would have
8 went to shut the door, would she have shut you in it?
9 A. Yes.
10 Q. Okay.
11 A. Yes.
12 Q. So you were in the open part?
13 A. Yup. In the open part, yup.
14 Q. And just for the record. She didn't try to shut the
15 down on you, did she?
16 A. She did not, no.
17 Q. So now you're talking to her. What are you saying?
18 A. Basically, I'm just like -- I don't know verbatim what
19 I said -- but I was trying to say: Hey, I'm here to
20 try to figure out what's going on. Trying to say: Hey,
21 Chief wants a civil standby. What's happening? Just
22 the initial time I was there, I was trying to figure
23 out what was going on in her aspect -- in her point of
24 view.
25 Q. And did she tell you?

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1 A. I could not understand what she was --
2 Q. Was she crying at the same time?
3 A. Yup.
4 Q. Was it a cry or a sob?
5 MR. CROSS: Object to form. You can
6 answer.
7 BY MR. CABOT:
8 Q. Do you know the difference?
9 A. It was not a sob. Because a sob would be like, you
10 know -- are you saying like a sob, like a kid is in the
11 corner just pouting-type thing?
12 Q. Did you see tears flowing from her eyes? Let's start
13 with that.
14 A. I don't remember if I saw tears.
15 Q. Was she crying at a point that she was like kind of
16 trying to catch her breath type thing?
17 A. No.
18 Q. Because I think your report indicated that she was --
19 A. While we are looking for that, can we take a pause to
20 use the bathroom?
21 Q. Sure.
22 A. Is that okay?
23 MR. CABOT: Off the record.
24 (Recess taken at 11:00 a.m. and resumed
25 the deposition at 11:05 a.m.)

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1 BY MR. CABOT:
2 Q. So do you know if she was crying or sobbing or
3 displaying any type of emotion other than this
4 screaming that you've described so far?
5 A. I mean you could tell that she was emotional.
6 Q. Okay.
7 A. I mean crying. I mean her eyes were red and -- I mean
8 like she had been crying.
9 Q. Okay. And is that when you mentioned something about
10 the loss of your family member?
11 A. No.
12 Q. Okay. So you're kneeling in the crook of the door.
13 A. Yup.
14 Q. Trying to figure out what's going on. What happens
15 next?
16 A. I couldn't get her to calm down so then I backed away
17 from the car and I met with Chief again.
18 Q. Now when you backed up, how far did you have to go to
19 start talking with the Chief? Like a couple of steps
20 or feet?
21 A. We backed up, I don't know, ten feet away from the car.
22 Q. Okay.
23 A. About. I don't know the exact distance.
24 Q. Okay. And what did the two of you talk about at that
25 point?

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1 A. My main thing was to maybe give her some time to calm
2 down. So I told Chief, you know, give it a second and
3 then I'll go back up there and try to talk to her
4 again.
5 Q. And was he in agreement with that general plan?
6 A. Yeah. I mean we're kind of both stumped as to what to
7 do as far as getting her to calm down. So gave it a
8 minute or two. I went back there. This time I was
9 standing.
10 Q. Now when you say a minute or two, do you literally mean
11 like a minute or two or is that just slang for maybe
12 five, ten minutes?
13 A. It wasn't ten minutes. I mean it wasn't that long.
14 Q. Okay.
15 A. No, no more than five. I mean it wasn't -- I wouldn't
16 even say it was that long. When I say a minute or two,
17 probably a minute or two.
18 Q. And during that time she doesn't try to leave?
19 A. Correct.
20 Q. She doesn't try to leave her car?
21 A. Correct.
22 Q. She doesn't display any assaultive behavior?
23 A. Correct.
24 Q. She's still doing, what?
25 A. Yelling, screaming.

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1 Q. Okay. And you decide to go back to the car?
2 A. Yup.
3 Q. Does Gibbs follow you?
4 A. I don't know. Like I said, I don't know where he was
5 at.
6 Q. Okay. This time you stand?
7 A. Yup.
8 Q. Are you in the crook of the door at this time standing
9 or are you on the outside of the door?
10 A. Same spot I was when I was kneeling.
11 Q. So you're in the crook of the door there?
12 A. Yup.
13 Q. Now what happens?
14 A. I was going to -- I was telling her that I didn't feel
15 comfortable with her driving. She was too emotional to
16 drive. I offered her at that time that I was going to
17 give her a ride home. That her car would be fine. And
18 I'm just talking. She's still screaming but I'm just
19 talking. I said: I don't feel comfortable with you
20 driving home. You're too emotional. I told her I was
21 going to give her a ride home. I told her I would give
22 her my business card with my personal cell phone number
23 on it so she could call me and I would come get her and
24 bring her back when she calmed down. I told her --
25 again, I'm just talking. I said: Going to get her

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1 dogs today was not going to be an option.
2 Q. Did she ever have a response to that?
3 A. She -- yeah. She -- I remember her saying that she
4 wanted her dogs. But I -- and I just told her, I just
5 said: It's not an option. You're too emotional. I
6 tried to explain to her, you know, with the events of
7 what happened today, it's just not going to be an
8 option. You guys needed to calm down. And, again, I'm
9 just talking.
10 Q. Okay.
11 A. She's continuing to scream. I did raise my voice and
12 say, I said: Elizabeth. You know, loudly. At that
13 time she was telling me that I just didn't understand.
14 And that's when I said: I'm trying to understand. And
15 then she mentioned something about losing a child. And
16 then that's when I knelt down again and I said:
17 Elizabeth, I completely understand. I lost my mom two,
18 three months prior to that and I thought that was my in
19 to get her to calm down. So I knelt down again and I
20 was trying to tell her I knew -- I understood what she
21 was going through. I didn't lose a child but I lost a
22 mom. But she continued to, again, screaming and
23 yelling telling me I didn't understand.
24 So this went on for some time. I don't
25 know. Five, ten minutes.

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<p style="text-align: right;">Page 49</p> <p>1 Q. Okay. And during this time, we'll call it this 2 communication, do you know where Gibbs is? 3 A. I don't know where he is at this time. 4 Q. Could be two steps behind you? Ten feet? You don't 5 know? 6 A. Correct. 7 Q. And again during this, you're within, if she wanted to, 8 she could have hit you, knocked you off balance, 9 anything, correct? 10 A. Yes. Yes. 11 Q. She didn't do that, correct, at that point? 12 A. Correct. 13 Q. You never felt you needed to draw your weapon when 14 dealing with her at that point. Is that correct? 15 A. Correct. 16 Q. You never felt you had to call for backup? 17 A. Correct. 18 Q. Okay. So there's some discussion going on. Then you 19 stand up. And then what happens when you stand up? 20 A. I backed away from the car again. 21 Q. And where did you go? 22 A. I talked to Chief again. 23 Q. Again? 24 A. Again. 25 Q. Okay. So this is basically conversation number two?</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Basically, B. pillar, for those that don't know, is 2 where the door would shut and latch? 3 A. True. 4 Q. Essentially, there's a piece of metal that usually runs 5 down. That's the pillar we're talking about? 6 A. Correct. 7 Q. And so what happens at this point? 8 A. I had put both of my hands out and I said: You know, 9 Elizabeth, I'm going to help you get out of the car. I 10 don't feel comfortable with you driving. And Chief was 11 right there. She had looked at us both. And that's 12 when she took her left arm and struck Chief in the 13 chest. 14 Q. Now, where was -- if you're at the B. pillar, where is 15 the Chief? 16 A. Right to my left. 17 Q. So he's -- 18 A. In the door. 19 Q. -- closer to the V. of the door? 20 A. Correct. 21 Q. Okay. And you say she takes her left arm and does 22 what? 23 A. She strikes Chief in the chest. 24 Q. With the arm? With the palm of her hand or with a 25 fist?</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Number two, correct. 2 Q. With Chief Gibbs? 3 A. Yup. 4 Q. And what's discussed at this time? 5 A. I told Chief Gibbs I don't want her to drive. She's 6 too emotional. I was concerned with the safety of 7 other people and herself. I said: Maybe if both of us 8 walk up there together we can ask her to get out of the 9 car. Hopefully, she will come out of the car. 10 Q. And is that what happened? 11 A. We walked back up there together, yes. 12 Q. Okay. Did you both approach the driver's door or did 13 one go to the passenger side and one stay in the 14 driver's? 15 A. No, we both went on the driver's side. 16 Q. Was Gibbs within arm's reach of you? 17 A. He was right on my left side. 18 Q. And did you go back into the crook of the car again? 19 A. Nope. I was at the, like the B. pillar. I know -- 20 okay. Where the door shuts -- are you familiar with 21 the B. pillar? 22 Q. Uh-hum. 23 A. Okay. I was right at the B. pillar. And Chief was 24 right to the left of me right with his back up against, 25 like the door.</p>	<p style="text-align: right;">Page 52</p> <p>1 A. With her -- with her fist. 2 Q. So she had -- you're telling me her hand was balled in 3 a fist? 4 A. Yes. 5 Q. It wasn't a slap? 6 A. No. And then she proceeded from there to backhand me 7 in my chest, chest/arm area. 8 Q. Were they separate actions or one sweeping motion that 9 happened to make contact with both of you? Do you 10 understand my question? 11 A. It would be two -- it would be two actions because it 12 wasn't -- it wasn't one action like this. It was 13 straight here and then back here. So it was two 14 different actions. 15 Q. And where did she hit you? 16 A. It was like my chest, but I had my arm up already. So 17 it was like kind of -- 18 Q. So she hit your forearm? 19 A. Yeah, arm and chest. Yeah, like that. 20 Q. Cause any bruising? 21 A. Nope. I had my vest on. 22 Q. Did it knock you off balance? 23 A. Nope. 24 Q. Do you know if it knocked Gibbs off balance? 25 A. No.</p>

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<p style="text-align: right;">Page 53</p> <p>1 Q. You don't know or it didn't?</p> <p>2 A. It didn't.</p> <p>3 Q. Okay. So it was kind of like a fly-swatting motion?</p> <p>4 Is that what we're talking about?</p> <p>5 MR. CROSS: Object to form.</p> <p>6 BY MR. CABOT:</p> <p>7 Q. Go ahead.</p> <p>8 A. I guess explain a fly-swatting motion.</p> <p>9 Q. Well, if she's sitting in the car, she extends it -- do</p> <p>10 you know if it was the front part of her wrist? What</p> <p>11 part of her fist actually hit you?</p> <p>12 A. It was the back part of her arm or hand.</p> <p>13 Q. So the top part of her hand?</p> <p>14 A. Um-hum.</p> <p>15 Q. Is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And do you know what part of her hand made contact</p> <p>18 with, you said Gibbs' chest?</p> <p>19 A. What part of her hand?</p> <p>20 Q. Yeah.</p> <p>21 A. It would be -- I'm not going to say exactly, but I</p> <p>22 would -- her hand was balled and it had to be her</p> <p>23 knuckles.</p> <p>24 Q. Okay. And it was a backhanded motion, correct, or was</p> <p>25 it a front-on, like a boxer motion?</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. Okay.</p> <p>2 A. And I said: You're under arrest now.</p> <p>3 Q. Okay. Did you grab her hand, or her wrist, or arm?</p> <p>4 A. At that point I grabbed her -- her wrist. And then I</p> <p>5 had my right hand -- I moved my right hand down to</p> <p>6 her --</p> <p>7 Q. Between her --</p> <p>8 A. Biceps.</p> <p>9 Q. Between her shoulder?</p> <p>10 A. Yeah, her biceps. So underneath -- underneath her --</p> <p>11 like tricep region, up.</p> <p>12 Q. So between her elbow and her shoulder?</p> <p>13 A. Correct.</p> <p>14 Q. Did you do that forcefully or just enough to get her</p> <p>15 out of the car?</p> <p>16 A. No, at that point I just grabbed onto her. I said:</p> <p>17 Elizabeth, you're under arrest. You need to get out of</p> <p>18 the car. She was pulling away so I was pulling -- it</p> <p>19 was kind of a tug-of-war thing back and forth. I said:</p> <p>20 Elizabeth, you're under arrest. You need to get out of</p> <p>21 the car.</p> <p>22 At that time when we were pulling back</p> <p>23 and forth, I did try to forcefully bring her out.</p> <p>24 Q. And when you did that, what was the nature of your</p> <p>25 contact with her? What did you have grabbing her?</p>
<p style="text-align: right;">Page 54</p> <p>1 A. No, it was a straight off to the side motion.</p> <p>2 Q. Okay. Do you know if it left any marks on Chief Gibbs?</p> <p>3 A. I don't know that.</p> <p>4 Q. What happened when you -- when you put both hands out,</p> <p>5 did you tell her what you were doing or did you just</p> <p>6 put your hands in the car?</p> <p>7 A. No, I wasn't even in the car. My hands were outside</p> <p>8 and I said: Elizabeth, I'm going to help you out of</p> <p>9 the car. Because I noticed that she had a cast on. I</p> <p>10 said: Elizabeth, I'm going to give you a ride home.</p> <p>11 I'm going to help you out of the car. And it was a,</p> <p>12 like a -- like: I'm going to help you gesture.</p> <p>13 Q. Did she ever indicate to you that she had a cast on her</p> <p>14 foot?</p> <p>15 A. No.</p> <p>16 Q. So she never mentioned it?</p> <p>17 A. No.</p> <p>18 Q. What happens next?</p> <p>19 A. At that time I grabbed her hand.</p> <p>20 Q. Which hand did you grab?</p> <p>21 A. Her left hand.</p> <p>22 Q. Okay. Did you tell her you were going to grab her</p> <p>23 hand?</p> <p>24 A. No, I didn't. It was at -- when she had hit me, it was</p> <p>25 a fluid motion where I grabbed onto her.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. My hand -- my hands.</p> <p>2 Q. Okay. And did you have both hands on one arm, or one</p> <p>3 arm still on -- one hand on one of her wrists and the</p> <p>4 other hand on the other tricep, or where?</p> <p>5 A. Same arm. I had my left hand on her -- on her wrist</p> <p>6 area, and I had my right hand on her tricep/bicep area.</p> <p>7 Q. Okay. And did you get her out of the car?</p> <p>8 A. Nope.</p> <p>9 Q. What happens?</p> <p>10 A. As I was -- I pulled harder. She took her left foot</p> <p>11 and put her left foot up in -- I'm sorry -- she put her</p> <p>12 left foot in to the, on the door, between the door, and</p> <p>13 braced her -- braced herself with her foot.</p> <p>14 Q. Are you saying she did that in an attempt to preclude</p> <p>15 you from getting out of her car --</p> <p>16 A. Yes.</p> <p>17 Q. -- or was she trying to deal with the walking cast she</p> <p>18 had on?</p> <p>19 A. No. No, she put her foot up to prevent herself from</p> <p>20 getting out of the car.</p> <p>21 Q. And while this is all going on with you and Elizabeth,</p> <p>22 what is Gibbs doing? Is he standing there within an</p> <p>23 arm's reach of you?</p> <p>24 A. As a matter of fact, I moved over some. So I don't</p> <p>25 know if I kicked him out of the way or moved into the</p>

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<p style="text-align: right;">Page 57</p> <p>1 thing. I don't remember exactly where he was at.</p> <p>2 Q. But you believe you felt him physically?</p> <p>3 A. I couldn't tell you.</p> <p>4 Q. Okay. Did he ever intervene on your behalf?</p> <p>5 A. Nope. Intervene on my behalf? What do you mean?</p> <p>6 Q. Like get in there to assist you and grab her or pull</p> <p>7 her, or anything like that?</p> <p>8 A. No. No.</p> <p>9 Q. Your understanding was he was in the near vicinity,</p> <p>10 though. He could have if he wanted to? I mean it</p> <p>11 wasn't like he was a hundred yards away?</p> <p>12 A. Oh. Correct. Correct.</p> <p>13 Q. He was within an arm's reach of you, wasn't he?</p> <p>14 A. Um-hum.</p> <p>15 Q. Is that a yes?</p> <p>16 A. Yes. I'm sorry. My fault.</p> <p>17 Q. Okay. So you claim she uses -- are you claiming that</p> <p>18 she used the foot that was in the brace to brace</p> <p>19 herself?</p> <p>20 A. She used her left foot.</p> <p>21 Q. Let's do it the easy way. Which foot was she using to</p> <p>22 brace herself? Was it the one with the cast or the one</p> <p>23 without the cast?</p> <p>24 A. The one with the cast.</p> <p>25 Q. Okay. A little bit ago we talked a little bit about</p>	<p style="text-align: right;">Page 59</p> <p>1 A. I don't know when we got them.</p> <p>2 Q. All right. But they -- was the problem ever resolved?</p> <p>3 A. No.</p> <p>4 Q. With the battery and the body cam?</p> <p>5 A. No. My camera is still not hooked up. We have the</p> <p>6 same camera systems.</p> <p>7 Q. Okay. So you would have to use somebody else's car --</p> <p>8 A. Correct.</p> <p>9 Q. For it to work?</p> <p>10 A. Correct.</p> <p>11 Q. And that's why we got the Goodspeed --</p> <p>12 A. Correct.</p> <p>13 Q. -- encounter?</p> <p>14 A. Correct.</p> <p>15 Q. What was your car?</p> <p>16 A. What was my car?</p> <p>17 Q. Did it have a number or --</p> <p>18 A. Our badge number is our car. It's 208.</p> <p>19 Q. Do you know if there was ever a work order or</p> <p>20 maintenance request done to fix that?</p> <p>21 A. There's been so many of them. So, yes. We had the</p> <p>22 camera system people actually come over to our cars and</p> <p>23 work on them, and couldn't figure out what it was</p> <p>24 doing.</p> <p>25 Q. But if your body cam would have been operational, this</p>
<p style="text-align: right;">Page 58</p> <p>1 the position of the vehicles.</p> <p>2 A. Uh-hum.</p> <p>3 Q. And did your car ever -- prior to the body cam -- did</p> <p>4 your car ever have cameras in the front?</p> <p>5 A. Did it ever?</p> <p>6 Q. Yeah.</p> <p>7 A. I mean they were installed but they never worked</p> <p>8 because it would drain my battery.</p> <p>9 Q. I'm talking before the body cam.</p> <p>10 A. Right. The camera itself destroyed the batteries in</p> <p>11 our car.</p> <p>12 Q. Okay.</p> <p>13 A. So anytime they hooked it up and we put a new battery</p> <p>14 in it, it exploded the battery. So we -- so it never</p> <p>15 worked in my car.</p> <p>16 Q. Oh, okay. And you knew that?</p> <p>17 A. I knew that.</p> <p>18 Q. Okay. Do you know when management knew of that issue?</p> <p>19 It was before this incident, wasn't it?</p> <p>20 A. It was right when we got it.</p> <p>21 Q. And when was that, approximately?</p> <p>22 A. I don't remember.</p> <p>23 Q. When do you recall you got your body cam?</p> <p>24 A. Same time-ish. I don't know.</p> <p>25 Q. Do you know if you got it in 2014, 2015?</p>	<p style="text-align: right;">Page 60</p> <p>1 encounter would have been captured, correct?</p> <p>2 A. Right.</p> <p>3 Q. So we're at the point now where you're telling me she's</p> <p>4 using her casted foot to brace herself?</p> <p>5 A. Yup.</p> <p>6 Q. In what you believe to be an attempt to not allow her</p> <p>7 to be removed from the vehicle?</p> <p>8 A. Yup.</p> <p>9 Q. You have both hands on her. One on her wrist, and one</p> <p>10 on her -- between her elbow and her shoulder. What</p> <p>11 happens next?</p> <p>12 A. We did this back and forth tug of war. And at that</p> <p>13 time I took my -- I took her arm and I pulled it. I</p> <p>14 reached in with my right arm. I secured her chin and I</p> <p>15 used the infraorbital, which is a pressure point</p> <p>16 underneath the nose.</p> <p>17 Q. So basically describe what that is. Is it like you use</p> <p>18 your --</p> <p>19 A. Yup.</p> <p>20 Q. -- like your --</p> <p>21 A. Pointer finger.</p> <p>22 Q. Yup.</p> <p>23 A. And then you put it underneath where your nostrils</p> <p>24 meet, there's a little notch.</p> <p>25 Q. The bridge?</p>

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<p style="text-align: right;">Page 61</p> <p>1 A. The bridge. And basically you do a push and then up on 2 the nose. 3 Q. Okay. Did you warn her that: Look, if you don't get 4 out of this car, I'm going to have to use some force on 5 you? 6 A. Nope. 7 Q. Okay. I have to admit in 14 years of doing this, I've 8 never heard of that technique. Is that a technique you 9 learned through your training at Newaygo? Is it 10 something you learned at the academy? 11 A. Both. 12 Q. Okay. Which academy did you go to? I didn't ask that. 13 A. West Shore Community College. 14 Q. All right. So since I'm not familiar with the 15 technique, I'm just going to call it the finger under 16 the nose. Okay? 17 A. Um-hum. 18 Q. So you put your finger under the nose. And is that 19 meant to kind of make her follow you to -- 20 A. Correct. It's a pain compliance, yes. 21 Q. And what's your other hand doing at that time? So 22 you've got one under the nose? 23 A. Yes. 24 Q. Do you still have her arm or something? 25 A. No. I secured her chin with my -- with my other arm.</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. Where is Gibbs during this part? 2 A. Standing right next to me. 3 Q. So you know where he's at at that moment? 4 A. Um-hum. 5 Q. Is that a yes? 6 A. Yes. I'm sorry. Yes. 7 Q. You're fine. 8 Is she handcuffed while she's on the 9 ground? 10 A. Yes. 11 Q. Okay. So she couldn't have been laying on her back, 12 right? 13 A. Correct. Correct. 14 Q. So she's either sitting, laying on her side, or laying 15 on her stomach? 16 A. She's on her stomach when I handcuffed her. 17 Q. Did she give you any problems getting her hands behind 18 her back? 19 A. No. 20 Q. Did you ask her or did she voluntarily do it? 21 A. I mean I was telling her: Put your hands behind your 22 back. 23 Q. And she did that? 24 A. Yeah. 25 Q. She didn't say: F. you or --</p>
<p style="text-align: right;">Page 62</p> <p>1 So I secured the chin and underneath the nose. 2 Q. Okay. And you probably do a pulling motion towards you 3 so she gets out of the car, or what happens? 4 A. I didn't have to. She came right out of the car. 5 Q. And when you say "came right out of the car," what does 6 that mean? She fell onto the ground or stand up? 7 A. No, she didn't stand up. She put her foot down and 8 then, like she was pushing out of the car, she was 9 using -- I didn't have to pull her. She just came 10 right out of the car. 11 Q. So she kind of swiveled her buttocks to get her feet 12 out and puts them on the ground and -- 13 A. Yeah, we didn't -- she didn't stand up. We went 14 straight down to the ground. 15 Q. How does she end up on the ground? Does she end up on 16 her side, or buttocks? Face, back? 17 A. How did she -- 18 Q. If you know. 19 A. I don't -- I don't know if she came down on her side 20 and then over, or -- I don't know. 21 Q. So she didn't get up on her feet? 22 A. She did not stand up, correct. 23 Q. Okay. And then what happens when she's on the ground? 24 A. I take my hands off of her and take her arms and put 25 her in handcuffs.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. She was calling me all kinds of names but -- but, yeah. 2 Q. But she didn't resist your efforts giving you her 3 hands? 4 A. Correct. 5 Q. You didn't have to ask Chief Gibbs for assistance? 6 A. That's correct. 7 Q. You didn't have to force her arms? 8 A. Correct. 9 Q. She voluntarily brought them back when you told her to, 10 correct? 11 A. Yes. 12 Q. Did you use one set of cuffs or two? 13 A. One. 14 Q. Did you handcuff her alone or did you have assistance? 15 A. Alone. 16 Q. And describe to me the handcuffing process that you 17 used. 18 A. I have hinge cuffs. So when they are behind her, I put 19 the handcuffs on. I always put my finger in between 20 the handcuffs. When it gets tight on my finger, I go 21 on to the next hand. With her, her hands are there so 22 then I put it on there. I always have my finger. Cuff 23 it until it is on my finger, and go. 24 Q. Okay. Did you do anything else? 25 A. After handcuffing?</p>

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1 Q. With regard to the handcuffs?
2 A. Yup. I have a -- there's a button, if you want to call
3 it, on the handcuffs. I take, either my pen or a
4 handcuff key -- in my case, I always use my pen -- and
5 you push the locks on it so they can't -- they're
6 locked. They can't tighten or loosen.
7 Q. So the phrase is: You double locked and checked for
8 tightness?
9 A. Correct.
10 Q. And you claim you did that in this case?
11 A. Yup.
12 Q. You're certain of that?
13 A. Positive.
14 Q. And the purpose of that is, A, the finger is so that
15 it's not too tight around the skin?
16 A. Correct.
17 Q. And double lock is so it doesn't get tighter as the day
18 progresses, right?
19 A. Correct.
20 Q. And you said they're hinged?
21 A. Yup.
22 Q. What does that mean?
23 A. So in laymen's terms you have the two handcuffs. There
24 are two chains rather than one so you can't twist your
25 hands around.

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1 Q. So there's a chain. It's just a short chain?
2 A. There are two chains so you can't twist. It's --
3 they're locked.
4 Q. Got you.
5 A. If you can understand -- if you know what I'm saying?
6 Q. I don't.
7 A. So you have your two handcuffs. And you know normal
8 handcuffs have one chain?
9 Q. Right.
10 A. And you can twist it.
11 Q. Yeah.
12 A. Basically, this has two chains so you can't twist the
13 handcuffs.
14 Q. Okay. Okay. I always learn something new.
15 MR. CROSS: I think Chief Gibbs might
16 have a pair.
17 THE WITNESS: Those are the normal ones.
18 MR. CABOT: Let's go off the record.
19 (Conversation held off the record.)
20 BY MR. CABOT:
21 Q. All right. So once you get Ms. Lowing handcuffed,
22 she's on the ground on her stomach, what happens next?
23 A. I handcuff her.
24 Q. Yeah, after you handcuff her.
25 A. Okay.

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1 Q. What happens next?
2 A. I roll her up on her side. And I said: I need you
3 to -- I always tell them I need you to put your feet
4 under there. We're going to help you up. Rolled her
5 to her side. And then I say: We're going to help you
6 up. And then I went: One, two, three. And up to her
7 feet we went.
8 Q. Did you have any assistance from Gibbs doing that?
9 A. I don't remember.
10 Q. Okay.
11 A. I don't remember.
12 Q. But he was still --
13 A. He was right there.
14 Q. He was right there?
15 A. Yup.
16 Q. She never tried to kick you, did she?
17 A. No.
18 Q. So now she's on her feet. What happens next?
19 A. We walk across the street to my cruiser.
20 Q. Did you ever drag her at all on the cement?
21 A. No.
22 Q. Did you ever move her while she was on the cement?
23 A. Other than to her side, no.
24 Q. No reason to drag her, right?
25 A. No.

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1 Q. That would be unreasonable or excessive, wouldn't it?
2 A. Yup.
3 Q. And you said you also checked her cuffs for tightness
4 by sticking your index finger in there and you double
5 locked it, right?
6 A. Yes.
7 Q. And to not do that would be unreasonable, wouldn't it?
8 A. If I did not do it?
9 Q. Yeah, if you don't do it?
10 A. Correct.
11 Q. Did she ever complain that the handcuffs were too
12 tight?
13 A. Nope.
14 Q. Have you ever had an arrestee complain that the
15 handcuffs were too tight?
16 A. Yup.
17 Q. And what do you do when that complaint is made?
18 A. You check them again.
19 Q. Okay. And to not do that would be unreasonable,
20 wouldn't it?
21 A. Correct.
22 Q. Now, is there a policy on that or is that just by your
23 training, or both?
24 A. I don't think there's a policy on it. I think it's
25 just through training.

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<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. So once you have Ms. Lowing to her feet, you 2 walk her to your police car, which is across the 3 highway or the road? 4 A. Street. Not a highway. A street. 5 Q. A street? 6 A. Yup. 7 Q. Does Gibbs go with you? 8 A. I think so but I don't remember. 9 Q. Okay. And how is Ms. Lowing put in the car? 10 A. She sat down. 11 Q. So she sat down on her buttocks? 12 A. Um-hum. 13 Q. Is that a yes? 14 A. Yes. I'm sorry. Yes. 15 Q. She didn't go in on her side? 16 A. Correct. 17 Q. Okay. Was she seatbelted? 18 A. No. 19 Q. And was there a reason why? 20 A. She was still screaming. Still hollering. The way our 21 seatbelts are, you have to reach around the person to 22 seatbelt them and I wasn't going to put my whole body 23 in front of her. 24 Q. Didn't you reach around her while she was in her car? 25 A. No.</p>	<p style="text-align: right;">Page 71</p> <p>1 out on my own. 2 Q. No problems doing that? 3 A. No. 4 Q. Didn't have to ask for backup? 5 A. No. 6 Q. And then what do you do with her? 7 A. When you pull into the jail, it's like a garage. 8 Q. Like a sally port? 9 A. A sally port, yup. And then you've got to walk through 10 two separate doors. They have to buzz you in through 11 two separate doors. And then when you walk into that 12 separate door, that's kind of where they do their 13 pat-down and the corrections officer takes the cuffs 14 off. Does a pat-down. Takes all their property. Like 15 jewelry and all that at that table right there. 16 Q. Do you stay there while they're doing that? 17 A. No, I walk on. And there's another table, like the 18 booking table where they ask all the questions. And 19 that's where we fill out the booking form. 20 Q. Were you present when she was asked the booking 21 questions? 22 A. I don't think so. No. 23 Q. Were you present when they inventoried her property? 24 A. I'm in the vicinity. I don't watch them inventory the 25 property.</p>
<p style="text-align: right;">Page 70</p> <p>1 Q. You didn't reach an arm around her to get her out? 2 A. No. 3 Q. What happens when she's in the car? 4 A. She continues to scream. 5 Q. Again, you don't know what she's saying? 6 A. I have no idea what she's saying. 7 Q. And then what happens? 8 A. I told Chief that I'm out of there and off to the jail 9 we went. 10 Q. Okay. Take her to the Newaygo County Jail? 11 A. Yup. 12 Q. And what happens there? How far of a distance was 13 that, approximately, driving distance? Like five 14 minutes, ten minutes, an hour? 15 A. Oh, no. Ten minutes. 16 Q. And what was she doing on the way there? 17 A. On the way to the jail? 18 Q. Yeah. 19 A. Just screaming. 20 Q. And you said she never complained the handcuffs were 21 too tight? 22 A. No. 23 Q. What happens at the jail? Are you met with anybody or 24 did you get her out on your own? 25 A. I don't think I was met by anybody. I think I got her</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. But if there was a problem with her, like she started 2 attacking people, you would have heard that? 3 A. Correct. Yup. 4 Q. None of that happened? 5 A. Correct. 6 Q. Was she screaming in the facility? 7 A. She -- I don't remember. 8 Q. Okay. 9 A. I don't remember. 10 Q. How long were you there, do you think? 11 A. Five minutes. 12 Q. Okay. Any more dealings with her after you brought her 13 and turned her over to the other jailers? 14 A. Two days later. 15 Q. When you went to her house? 16 A. Yeah. 17 Q. Other than that, for that day? 18 A. Oh. For that day, no. 19 Q. Okay. 20 A. No. 21 Q. Did she complain of any injuries or any pain or 22 anything like that? 23 A. No. 24 Q. In your Interrogatory answers you said: Plaintiff's 25 demeanor was quote "highly agitated, distressed."</p>

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1 A. What is interrogatories -- whatever you said.
2 MR. CROSS: Those are those written
3 questions.
4 THE WITNESS: Oh, okay.
5 MR. CABOT: Well, since there's a
6 question, I'll go ahead and -- I don't have another
7 copy. Sorry.
8 MR. CROSS: I don't either.
9 MR. CABOT: So I will make it an
10 exhibit, but they are the Interrogatories.
11 (Exhibit 1 was marked.)
12 BY MR. CABOT:
13 Q. I am going to show you what's been labeled as Exhibit
14 1, which are your signed Interrogatories. And I want
15 you to first go to page five and tell me if that is
16 your signature.
17 A. It is.
18 Q. Okay. Do these questions look familiar to you?
19 They're titled Defendant Justin Visser and Newaygo
20 County's Answers to Plaintiff's First Set of
21 Interrogatories to Defendants Visser & Newaygo.
22 A. What am I looking at?
23 MR. CROSS: That's the title.
24 THE WITNESS: Okay. Yeah. Yeah. Okay.
25 BY MR. CABOT:

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1 Q. Have you seen these before?
2 A. I seen the questions. I don't remember seeing this.
3 Q. Okay. Well, let's look at the answers. But that is
4 your -- but that is your signature at the end?
5 A. Yup. Yup.
6 Q. Okay. All right. So looking at --
7 A. Yes, I've seen this before. Yes, I'm sorry.
8 Q. Okay.
9 A. Yes, I'm sorry. My fault.
10 Q. Looking at Interrogatory 3 of Exhibit 1. You said,
11 "Plaintiff's demeanor was highly agitated, distressed,
12 angry and verbally assaultive."
13 A. Uh-hum. Yes.
14 Q. What does angry and verbally assaultive mean?
15 A. She was calling Chief and I names. Assholes. Jerks.
16 She was just calling us all kinds of names.
17 Q. That didn't hurt your feelings, did it?
18 A. No, I've been called worse.
19 Q. I was going to say, you've probably been called that
20 and worse, right?
21 A. Yes.
22 Q. And then you said it was comparable to a small child
23 having a temper tantrum?
24 A. Yup.
25 Q. What does that mean?

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1 A. Where a small child that's having such an uncontrolled
2 fit that you kind of can't control that child. And you
3 kind of just let them be until they calm down and then
4 you talk about it afterwards.
5 Q. Okay. But again there was nothing so assaultive you
6 had to un-holster your weapon?
7 A. Correct.
8 Q. Or request assistance?
9 A. Correct. Correct. Correct. Yes.
10 Q. Now, it says in your response to question six: That
11 you reached into the car in a motion to help her.
12 So I guess my question is: What did you
13 do to reach in the car? You felt okay to do that then
14 but you said you didn't want to reach over her in the
15 squad car to put a seatbelt on?
16 A. I reached my hands up to ask her to help her out of the
17 car. I didn't reach into the car around her. I
18 reached my hands over to say: Hey, I'll help you out
19 of the car. With the cars, the seatbelt is on your
20 left side so you have to reach across the person to put
21 the handcuffs on.
22 Q. Okay. And did you use a Gooseneck hold on her wrist?
23 A. Correct.
24 Q. What's that?
25 A. That is where you -- there's a pressure point in your

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1 hand here. So when she -- after she struck me, I
2 grabbed onto her hand, wrist and it's kind of moving
3 the wrist. It's another pain compliance.
4 Q. Basically, you moved the hand in a downward motion
5 while applying pressure to the top of their wrist?
6 A. Correct. Good answer.
7 Q. Thanks. Glad I could help.
8 And then you said you used the straight
9 arm bar. Now, usually with the straight arm bar you
10 use your foot as another maneuver. Did you use your
11 foot? You couldn't use your foot at this point?
12 A. I guess I don't know about using your foot for a
13 straight arm bar.
14 Q. Well, usually they position it with their legs. But
15 what did you do?
16 A. I guess -- I guess I don't know if --
17 Q. Let's talk about what you do.
18 A. The straight arm bar is basically you use the arm. You
19 bring it down to your hip and you use your arm to
20 straight arm bar the person to the floor.
21 Q. Okay. That's how you got her to the ground?
22 A. No, that's not how I got her to the ground.
23 Q. What did you use the straight arm bar for then?
24 A. That was to try to get her out of the car. She was
25 putting her foot up to prevent me from getting her out

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<p style="text-align: right;">Page 77</p> <p>1 of that.</p> <p>2 Q. Okay. So that's the maneuver you used when you claim</p> <p>3 she was using her casted leg to brace herself to not be</p> <p>4 removed from the vehicle?</p> <p>5 A. Correct.</p> <p>6 Q. When did you draft your police report regarding this</p> <p>7 incident? Was it that day? The next day?</p> <p>8 A. We dictate our reports.</p> <p>9 Q. Okay.</p> <p>10 A. So it would have been that day I would have dictated</p> <p>11 it.</p> <p>12 Q. And when you say dictate, that's the old fashion you</p> <p>13 talk into a microphone and then --</p> <p>14 A. Telephone.</p> <p>15 Q. And then somebody else types it up?</p> <p>16 A. Correct.</p> <p>17 Q. And then you review it or --</p> <p>18 A. Correct.</p> <p>19 Q. Do you recall when you reviewed this?</p> <p>20 A. I don't know the exact date.</p> <p>21 Q. Do you sign it when you're done?</p> <p>22 A. No.</p> <p>23 Q. Huh?</p> <p>24 A. No.</p> <p>25 Q. Then how do you know it's accurate? Or how do you let</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. So I want to know how do I know that this is the</p> <p>2 version that you reviewed and you put your seal of</p> <p>3 approval on as being truthful and accurate?</p> <p>4 A. How do you know?</p> <p>5 Q. How do I know that this is your final version; that's</p> <p>6 the correct and accurate one?</p> <p>7 A. I guess I don't know how you would know.</p> <p>8 Q. Okay. When you entered the report, did you</p> <p>9 automatically put the status as closed in it, or does</p> <p>10 somebody else do that?</p> <p>11 A. At this time -- it's since changed -- but everything</p> <p>12 was closed at that time. Closed with us. Turned over</p> <p>13 to the prosecutor.</p> <p>14 Q. Okay.</p> <p>15 A. Now they do it so everything is open and turned over to</p> <p>16 the prosecutor because with the computer system they</p> <p>17 can close it out now.</p> <p>18 Q. I want you to look at page two of your report. It says</p> <p>19 after -- first full paragraph on that page -- starts</p> <p>20 off: After I told Ms. Sanborn that she was going to be</p> <p>21 transported home, "I reached into the car"?</p> <p>22 A. Um-hum.</p> <p>23 Q. So what was -- what was it -- how far did you reach</p> <p>24 into the car?</p> <p>25 A. An inch or two. I reached into the car to help her</p>
<p style="text-align: right;">Page 78</p> <p>1 someone else know that you reviewed this and what's in</p> <p>2 it is true and accurate?</p> <p>3 A. Because you press the "submit" button and it submits</p> <p>4 it.</p> <p>5 Q. Okay. So I'm going to give you a packet -- I have</p> <p>6 enough of these for everybody. This will be Exhibit 2.</p> <p>7 (Exhibit 2 was marked.)</p> <p>8 BY MR. CABOT:</p> <p>9 Q. And you're going to notice at the bottom right corner</p> <p>10 there's some numbers called Bates stamps. Not that you</p> <p>11 care to know that. But I want you to look at Bates</p> <p>12 stamp pages three, four and five of that packet.</p> <p>13 And I've got one for both of you guys.</p> <p>14 A. Three back?</p> <p>15 MR. CROSS: You're going this way.</p> <p>16 Yeah, there you go. Right down here.</p> <p>17 THE WITNESS: Okay.</p> <p>18 BY MR. CABOT:</p> <p>19 Q. So pages three, four and five. Does that document look</p> <p>20 familiar to you?</p> <p>21 A. Yes.</p> <p>22 Q. And what is it?</p> <p>23 A. A police report.</p> <p>24 Q. Okay. This is what I got from your counsel.</p> <p>25 A. Um-hum.</p>	<p style="text-align: right;">Page 80</p> <p>1 out.</p> <p>2 Q. You didn't reach across her body?</p> <p>3 A. Nope.</p> <p>4 Q. Are you sure?</p> <p>5 A. Positive.</p> <p>6 Q. Okay. And then you say: Ms. Sanborn was then assisted</p> <p>7 out of the car. Is that just you that assisted her?</p> <p>8 A. Yup.</p> <p>9 Q. And is this report complete and accurate to the best of</p> <p>10 your knowledge?</p> <p>11 A. Yes.</p> <p>12 Q. Were you ever requested to testify at any preliminary</p> <p>13 exam or any court hearing?</p> <p>14 A. No.</p> <p>15 Q. Did Ms. Lowing ever tell you of any surgeries she had</p> <p>16 on that foot?</p> <p>17 A. No.</p> <p>18 Q. Did she have any difficulty walking?</p> <p>19 A. No.</p> <p>20 Q. Do you know Chief Gibbs outside of your working</p> <p>21 relationship? Like do you go to his house for a</p> <p>22 barbecue on the Fourth of July or --</p> <p>23 A. No.</p> <p>24 Q. Okay. Do you know of anybody who was in the general</p> <p>25 area who might have seen anything occur that day?</p>

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<p style="text-align: right;">Page 81</p> <p>1 A. No.</p> <p>2 Q. You indicated that before you used the finger and the</p> <p>3 nose technique, you didn't warn her. Did you ever warn</p> <p>4 her before you used the arm bar technique?</p> <p>5 A. No.</p> <p>6 Q. Any reason why not?</p> <p>7 A. Well, she struck me. There was -- I don't need to. It</p> <p>8 was -- it was one fluid motion.</p> <p>9 Q. The arm bar and the finger under the nose was one</p> <p>10 motion?</p> <p>11 A. No. When she struck the Chief and myself, it was one</p> <p>12 fluid motion is me -- after she struck me to, grab</p> <p>13 onto.</p> <p>14 Q. Okay. What about -- okay. So grabbing onto her,</p> <p>15 that's a fluid motion?</p> <p>16 A. Yup.</p> <p>17 Q. What about the finger under the nose? That wasn't</p> <p>18 fluid, was it? That was a separate act, right?</p> <p>19 A. It was fluid from the arm bar to the nose.</p> <p>20 Q. Was it just you alone that lifted her to her feet or</p> <p>21 did she have assistance by Gibbs?</p> <p>22 A. I don't remember if Chief helped her up or not, or</p> <p>23 assisted in helping her up.</p> <p>24 MR. CABOT: I don't have anything</p> <p>25 further at this time. Counsel might.</p>	<p style="text-align: right;">Page 83</p> <p>1 front of her chest or behind her neck?</p> <p>2 A. Behind her.</p> <p>3 Q. Okay. So you would have been at different -- you would</p> <p>4 have been exposed differently if you had reached to</p> <p>5 buckle her seatbelt in your patrol car, correct?</p> <p>6 A. Correct.</p> <p>7 Q. So in the, what we've been calling the finger under the</p> <p>8 nose maneuver, did you have other options available to</p> <p>9 you?</p> <p>10 A. Yeah. Obviously, when she struck the Chief and I, I</p> <p>11 mean as I'm doing the arm bar, or the arm bar to take</p> <p>12 out, I could have used a strike on her arm. It's a</p> <p>13 pressure point. A strike. I could have used the, what</p> <p>14 they call a brachial, which is to the side of the neck.</p> <p>15 There are a lot of different options. I could have --</p> <p>16 I could have went straight for my Taser. I could have</p> <p>17 used my -- I could have used my Mace, but I didn't feel</p> <p>18 that that was necessary.</p> <p>19 Q. And why didn't you feel it was necessary?</p> <p>20 A. I didn't think she felt -- or was a threat to myself.</p> <p>21 Q. Okay. Before we mark this, do you recognize this</p> <p>22 document?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MR. CROSS: We will mark this as Exhibit</p>
<p style="text-align: right;">Page 82</p> <p>1 MR. CROSS: Kate, do you have any</p> <p>2 questions?</p> <p>3 MS. MCCARTHY: Just one quick question.</p> <p>4 EXAMINATION</p> <p>5 BY MS. MCCARTHY:</p> <p>6 Q. So based on what you're saying that this was a fluid</p> <p>7 motion, this all happened within seconds, correct?</p> <p>8 A. It was -- it was quick. The striking of the Chief and</p> <p>9 myself to the arm bar, did. There was -- it was kind</p> <p>10 of like a tug-of-war match for, I'm going to say 10, 15</p> <p>11 seconds back and forth. And from there I knew it</p> <p>12 wouldn't work. So once she put her foot up, I reached</p> <p>13 around and out. Maybe total 30 seconds from all that.</p> <p>14 Forty-five seconds.</p> <p>15 MS. MCCARTHY: Okay. That's all I have.</p> <p>16 MR. CROSS: Okay.</p> <p>17 EXAMINATION</p> <p>18 BY MR. CROSS:</p> <p>19 Q. I think we cleared this up already, but we talked about</p> <p>20 the -- how you reached into the car to pull her out.</p> <p>21 Counsel was asking if you reached in to pull her out of</p> <p>22 the car, why didn't you reach around to buckle her</p> <p>23 seatbelt.</p> <p>24 I just want to clear up that when you</p> <p>25 reached in to pull her out of her car, was that in</p>	<p style="text-align: right;">Page 84</p> <p>1 3.</p> <p>2 (Exhibit 3 was marked.)</p> <p>3 BY MR. CROSS:</p> <p>4 Q. Could you just tell me what that document is? Exhibit</p> <p>5 3 is?</p> <p>6 A. So this is the booking document that we fill out. When</p> <p>7 I said that I do this after -- when they're patting her</p> <p>8 down, this is the booking document that we fill out.</p> <p>9 Q. So did you fill this out?</p> <p>10 A. I do.</p> <p>11 Q. Looking at -- I guess it's about two-thirds of the way</p> <p>12 down -- it says: Arresting Officer's Pre-Lodging</p> <p>13 Questionnaire. Do you see that section?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So you would have asked Ms. Lowing a series of</p> <p>16 questions, correct?</p> <p>17 A. Correct.</p> <p>18 Q. I want you to -- first of all, do you have any</p> <p>19 independent recollection of what her responses were to</p> <p>20 these questions?</p> <p>21 A. I don't remember -- no, I don't remember verbatim, no.</p> <p>22 Q. Okay. But what she said you would have written down on</p> <p>23 this form, correct?</p> <p>24 A. Correct. Yup.</p> <p>25 Q. So according to this form, what was her response when</p>

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1 you asked her whether she was taking any prescription
2 medications?
3 A. I was told to: Fuck off.
4 Q. Okay. And according to this form, what was her
5 response when you asked if she ever attempted suicide
6 or thought of committing suicide?
7 A. To fuck off again.
8 Q. So she was still verbally assaultive?
9 A. Correct.
10 Q. When you arrived at the jail, correct?
11 A. Yes.
12 MR. CROSS: Okay. I don't have any
13 other questions.
14 RE-EXAMINATION
15 BY MR. CABOT:
16 Q. So that's your handwriting about -- on three-quarters
17 of it. Do you know who it is at the bottom where it
18 says: Correction officer's signature?
19 A. No. Whoever is badge No. 134.
20 Q. Now, in number six you said she wouldn't talk but she
21 at least told you to fuck off, right?
22 A. Correct.
23 Q. Was she screaming at the jail?
24 A. I don't remember.
25 MR. CABOT: All right. I have nothing

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1 further.
2 MS. MCCARTHY: We're all done.
3 MR. CROSS: All right. You're all set.
4 (Deposition concluded at 12:00 p.m.)
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